



CITY OF HAYWARD AGENDA REPORT

AGENDA DATE November 24, 1998

AGENDA ITEM 5

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: **TENTATIVE MAP TRACT 6992, SITE PLAN REVIEW NO. 97-130-16 and VARIANCE APPLICATION NO. 98-180-07 - PAUL WONG (APPLICANT), MBR CORPORATION (OWNER) - Request to subdivide a 0.64+ acre parcel into 5 condominium units; approval of site and architectural plans; and variances to allow parking stalls within 3.9' of the property line, and private open space within 3' of the property line along "D" Street where a 10-foot setback is required.**

The property is located on the northeast corner of Winton Avenue and "D" Street in an RM (Medium-Density Residential) District.

RECOMMENDATION:

The Planning Commission (6:0) and staff recommend certification of the Mitigated Negative Declaration and approval of the tract map, site plan and variances.

DISCUSSION:

Project Description

The project is located in the Burbank neighborhood at the intersection of Winton Avenue and "D" Street. The realignment of Winton Avenue and the widening of "D" Street created the triangular configuration of the parcel. A 6-foot masonry wall was constructed along the "D" Street right-of-way in conjunction with the widening project. The applicant proposes construction of five detached condominium units in this neighborhood of single- and multi-family residences.

The site plan shows the five units fronting on a private street with access from Winton Avenue. The two-story residences are designed in a contemporary architectural style with a stucco finish and concrete tile roof. Covered entries, stucco molding, window pop-outs, a varied roofline and window mullions add interest to each elevation. Each unit has approximately 1,731 square feet of living space, including 4 bedrooms and 2 ½ bathrooms, and a two-car garage.

The parking provided on-site is consistent with the policies in the *Burbank Neighborhood Plan* and the requirements for multi-family development. Two parking spaces are provided in the garage of each unit and 5 uncovered guest-parking spaces are located within the development. Parking is not allowed on Winton Avenue or "D" Street in the vicinity of the project. However, on-street parking is available one half block to the east of the site on Dotson Court, and across Winton on Park Street.

**Mayor and City Council
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A private, fenced yard with a paved patio is provided for each unit. In addition, a stucco-walled courtyard with glazed view ports is provided for Units 1 and 5 to mitigate the impact of traffic noise from "D" Street. A shared garden with an arbor-covered swing is provided for residents of the development. The planting areas throughout the project, except for private yards, will be maintained by a homeowners' association.

The 6-foot sound wall on "D" Street and the 3-foot garden wall wrapping the corner of Winton will remain. Entry planters on both sides of the common driveway continue the same wall design. A 3-foot planting area and iron picket fence along the Winton frontage will connect the garden wall and entry features, creating a sense of enclosure for the development. A 6-foot masonry wall will be provided to separate the private yards of the two units that abut Winton Avenue from the street. A 6-foot wood fence will be constructed along the east property line and trees will be planted to buffer the adjacent one-story duplexes. Additional trees will be required behind the wall on "D" Street to soften the building elevations and enhance the streetscape.

Variances

The applicant requests a variance from the Zoning Ordinance to allow the private courtyard for Unit 1 to be located 3.9 feet from the side street property line along "D" Street where a 10-foot setback is required. A second variance is requested to allow the parking area to encroach 6 feet into the required 10-foot landscaped buffer along "D" Street.

The purpose of the 10-foot side street yard setback is to provide an attractive streetscape. However, in this instance, the City constructed a 6-foot high masonry wall along the "D" Street property line, leaving no space for the 10-foot setback. Therefore, the placement of parking or private open space within the 10-foot setback area would not impact the streetscape since they would not be visible from "D" Street. Staff recommends approval of the variances based on the attached findings.

School Capacity

The Hayward Unified School District has indicated that the small number of students generated by this project can be accommodated at the existing school facilities. Correspondence from HUSD is included as Attachment C.

Planning Commission Public Hearing

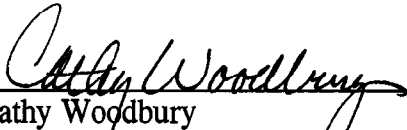
The Planning Commission reviewed the application at their October 22, 1998 meeting. The commissioners questioned the adequacy of the parking provided for the project, and voted unanimously to recommend approval of the application. No citizens spoke on the matter.

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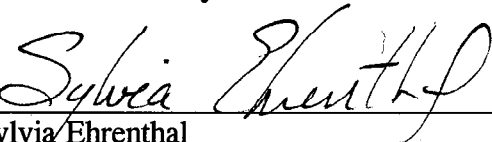
Conclusion

The project is compatible with surrounding residential land uses, meets the requirements of the Medium Density Residential (RM) District, and is consistent with the intent and policies of the *General Policies Plan* and the *Burbank Neighborhood Plan*. The proposed development fulfills the City's goal to create ownership housing opportunities.

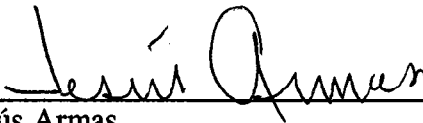
Prepared by:


Cathy Woodbury
Landscape Architect/Senior Planner

Recommended by:

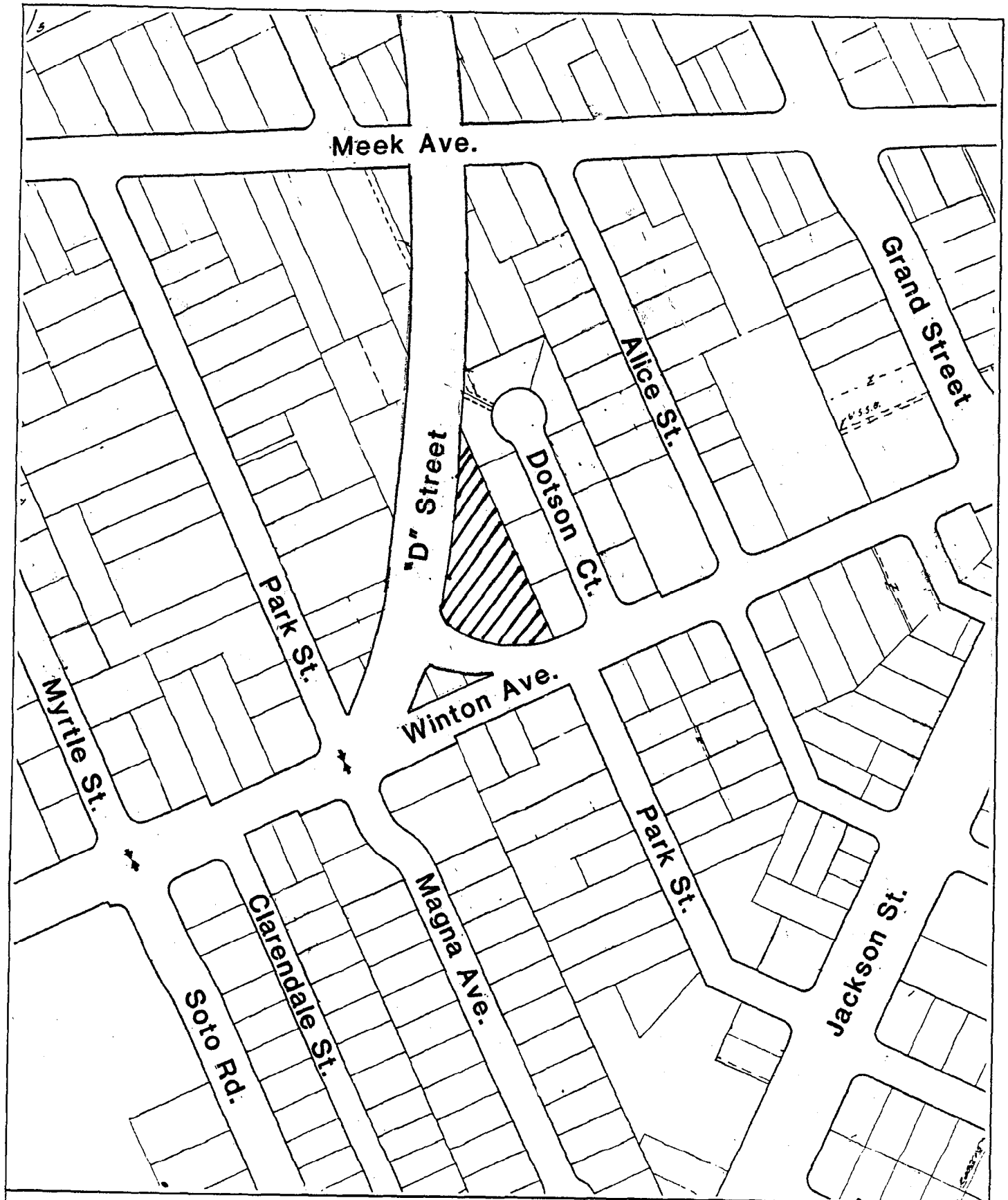

Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:


Jesús Armas
City Manager

Attachments:

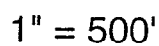
- A. Area Map
- B. Zoning Map
- C. Correspondence
- D. Draft Planning Commission Minutes and Staff Report, dated October 22, 1998
Draft Resolution(s)



AREA MAP ■ SPR 97-130-16 and Tentative Tract 6992

Winton Project L.P. (Appl.) ■ MBR Corporation (Owner)

292 Winton Ave., Tract 6992



292 Winton Ave., Tract 6992



Student Services and Learning Environment
Lawrence R. Lepore, Director of Facilities and Planning

October 20, 1998

Dyana Anderly
Planning Department
City of Hayward
777 B Street
Hayward, CA 94541

Subject: Developments at 24709 O'Neil, 24912 Mohr Drive,
292 Winton

Dear Ms. Anderly:

These three developments are relatively small. The students would attend Muir (O'Neil), Eden Gardens (Mohr) and Park (Winton) Elementary School respectively. Since the numbers of students generated from these developments would be small, the existing facilities are able to house them. The district would expect to receive the statutory dollar per square foot limit for Developer fees.

Sincerely,

Lawrence R. Lepore
Director
Facilities and Planning

LRL:mj

no way of knowing what use will be applied to that property. When a proposal is made, consideration might be given to a variance.

Commissioner Bennett said she had been struggling with this application since she generally has an adverse reaction to 4,000 square foot lots. It is compatible with the area and the neighborhood plan, however. She agreed with staff's proposal of a reconfiguration of the cul de sac for more desirability. She said she would support the motion because it will benefit the area.

Commission Caveglia said he would like to amend the motion to change Condition 40 from a masonry wall to a wood fence because of the prospect of graffiti on masonry walls. There was no second.

Planner Woodbury said the masonry wall would only be on the border of the Industrial property.

Chairperson Williams said he felt it was a good product for the area. He said he hoped there would be some way of saving one of the houses on the cul de sac in Court "C".

The motion passed, 6:0:1, with Commissioner Halliday absent.

2. **TENTATIVE MAP TRACT 6992, SITE PLAN REVIEW NO. 97-130-16 and VARIANCE APPLICATION NO. 98-180-07 - PAUL WONG (APPLICANT), MBR CORPORATION (OWNER)** - Request to subdivide a 0.64± acre parcel into 5 condominium units; approval of site and architectural plans; and approval of variances to allow parking stalls within 3.9 feet of the property line, and private open space within 3 feet of the property line along "D" Street where 10 feet is required.

The property is located on the northeast corner of Winton Avenue and "D" Street in a Medium-Density Residential (RM) District.

Planner Woodbury described the project saying the parcel was created because of the realignment of "D" Street. The soundwall is already in place so the courtyard will not be on the street. She indicated that staff supports the requests for variances. She explained that the project does meet the parking requirement for this type of project.

Public Hearing Opened at 8:59 p.m.

Paul Wong, 2401 Park Boulevard, #1, developer of the project said this type of condo project is unique. There is more support for detached housing and the density is below the maximum allowable. The land use is the same for townhomes but this eliminates the problems of common party walls. He indicated that the rights of the homeowners are better protected and it is a better value for the homeowner.

Bill Poon, 1250 Addison Street, Suite 210, Berkeley, architect for the project, described the differences between townhomes and condominiums. The condominium owners will have an association to maintain the character and commonality of the environment. It is a more positive way of keeping the property attractive over the long term. He said they recognized that it would be difficult to subdivide the property into single family lots.

MINUTES

REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD, Council Chambers, Thursday, October 22, 1998, 7:30 p.m. 777 "B" Street, Hayward, CA 94541

Jerry Gonzales, 587 Orchard Avenue, Sonora, civil engineer, said this is an innovative project and properly provides infill for this odd shaped lot.
Public Hearing Closed at 9:14 p.m.

Commissioner Fish **moved**, seconded by Commissioner Kirby, to accept staff recommendations for the project. He indicated that this would improve the area.

Commissioner Bogue spoke in favor of the project and said he hoped the quality of the project makes the units desirable.

The motion **passed, 6:0:1**, with Commissioner Halliday absent.

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters - None made

4. Commissioners' Announcements, Referrals

Commissioner Kirby asked for consideration of City Council having the opportunity to see a presentation developed by the Park District in response to the funding provided by Measure "A". He encouraged voters to support Measure "W" which would allow the Park District to continue their much-needed work.

MINUTES

- September 3, 1998 - Approved
- September 10, 1998 - Approved with corrections by Commissioner Kirby on page 5, "he commented that sprinkler systems might be a requirement..."; page 6, "250 miles of the Trail..."

ADJOURNMENT

The meeting was adjourned by Chairperson Williams at 9:28 p.m.

APPROVED:

Jerry Caveglia, Secretary
Planning Commission

ATTEST:

Edith Looney



ITEM NO: 2

AGENDA REPORT PLANNING COMMISSION ■ CITY OF HAYWARD

**MEETING OF:
October 22, 1998**

TO: Planning Commission

FROM: Tim Koonze, Development Review Specialist
Cathy Woodbury, Senior Planner/Landscape Architect

SUBJECT: TENTATIVE MAP TRACT 6992, SITE PLAN REVIEW NO. 97-130-16 and VARIANCE APPLICATION NO. 98-180-07 - PAUL WONG (APPLICANT), MBR CORPORATION (OWNER) - Request to subdivide a 0.64+ acre parcel into 5 condominium units; approval of site and architectural plans; and variances to allow parking stalls within 3.9' of the property line, and private open space within 3' of the property line along "D" Street.

The property is located on the northeast corner of Winton Avenue and "D" Street in an RM (Medium-Density Residential) District.

RECOMMENDATION:

That the Planning Commission recommend that the City Council:

1. Approve the Mitigated Negative Declaration; and
2. Approve the Tentative Tract Map 6992 based on the attached findings and conditions of approval; and
3. Approve the Site Plan Review and Variance applications.

DISCUSSION:

Property/ Project Description:

The vacant property is located in the Burbank neighborhood at the intersection of Winton Avenue and "D" Street. The realignment of Winton Avenue and the widening of "D" Street created the triangular configuration of the parcel.

Tentative Tract No. 6992, Site Plan Review No. 97-130-16, Variance 98-180-07 – Paul Wong (Applicant, MBR Corporation (Owner))

The site is within a developed area with a mixture of single-family homes and multi-family residential development. "D" Street and a sound wall bound the property on the east. Winton Avenue borders the site on the south. The site is separated from the duplexes on the west by wooden fences of varying heights. All the surrounding property is zoned Medium Density Residential (RM).

The applicant, Paul Wong, proposes construction of five detached condominium units. Because of the variances requested in association with the project, this application will be heard before the City Council for a final decision.

Streets, Utilities and Grading

The project will be served by a private street, constructed to public street standards with a 25-foot-wide right-of-way providing two travel lanes with no on-street parking. A five-stall parking bay will provide visitor parking. Both Winton Avenue and "D" Street are fully improved.

Water, sewer, and storm drain mains within the abutting streets will serve the project. Each unit will have individual water meters, and a separate meter will be installed for common landscape areas. The applicant will construct a 6-inch diameter sanitary sewer main to serve the proposed units. All on-site utilities will be owned and maintained by the homeowners association.

The applicant proposes to construct an on-site storm drain system that will connect into the storm drain in Winton Avenue. A small portion at the rear of Lot 5 will drain toward "D" Street. The property is relatively flat and will require a minimal amount of grading.

Circulation

Given the relatively small size of the parcel a garbage truck or fire truck turnaround is not provided. However, adequate fire protection will be achieved by providing sprinklers in the two units furthest from Winton Avenue. Because the local waste disposal company requires that trash containers must be no further than 150-feet from Winton Avenue, an area is designated next to Unit 4 for trash and recycling containers for the unit beyond this distance.

Noise

According to the acoustical consultant, Thorburn Associates, the noise levels in the backyards along "D" Street, Units 1 and 5, behind the existing 6-foot wall are estimated to be between 61 and 65 Ldn. This level exceeds the City's standard for an acceptable outside sound level of 60 Ldn.

Tentative Tract No. 6992, Site Plan Review No. 97-130-16, Variance 98-180-07 – Paul Wong (Applicant, MBR Corporation (Owner))

The applicant is proposing to construct a 7'-6" stucco-walled courtyard to provide private open space for Units 1 and 5. Thorburn Associates verified that the courtyard walls would reduce the exterior noise to an acceptable level. The consultant further recommends installation of noise-rated windows and sliding doors, and the use of mechanical ventilation to assure that the interior noise levels do not exceed 45 dB. These recommendations are included in the conditions of approval.

Site Plan and Architectural Design

The site plan shows the five units fronting on a private street with access to Winton Avenue. The 6-foot sound wall on "D" Street and the 3-foot garden wall wrapping the corner of Winton will remain. Entry planters on both sides of the common driveway continue the same wall design. A 3-foot planting area and iron picket fence along the Winton frontage will connect the garden wall and entry features, creating a sense of enclosure for the development. A 6-foot masonry wall will be provided to separate the private yards of the two units that abut Winton Avenue from the street. A 6-foot wood fence will be constructed along the east property line adjacent to the existing duplexes.

The two-story units are designed in a contemporary architectural style with a stucco finish and concrete tile roof. Covered entries, stucco molding, window pop-outs, a varied roofline and window mullions add interest to each elevation. Each unit has approximately 1,731 square feet of living space, including 4 bedrooms and 2 ½ bathrooms, and a two-car garage.

The project provides sufficient parking on-site. Two parking spaces are provided in the garage of each unit and 5 uncovered guest-parking spaces are located within the development. A variance has been requested to allow the parking area within 3.9 feet of the sound wall along "D" Street. (Please refer to the discussion under Variances).

From 169 to 977 square feet of private, fenced open space with a paved patio is provided for each unit. In addition to a fenced rear yard, a stucco-walled courtyard with glazed view ports is provided for Units 1 and 5 to mitigate the impact of traffic noise from "D" Street. A variance has been requested to allow the courtyard for Unit 1 to be located 3 feet from the sound wall along "D" Street. (Please refer to the discussion under Variances).

A garden area exceeding 1,000 square feet is provided for residents of the development. This group open space is equipped with a swing under an arbor and will be heavily landscaped. The planting areas throughout the project, except for private yards, will be landscaped and maintained by a homeowners' association. Additional tree planting will be required behind the wall on "D" Street and along the east property line to buffer the adjacent one-story residences.

Tentative Tract No. 6992, Site Plan Review No. 97-130-16, Variance 98-180-07 – Paul Wong (Applicant, MBR Corporation (Owner))

The 10-inch diameter oak tree in the rear yard of Unit 5 will be preserved.

Variances

The applicant requests a variance from the Zoning Ordinance to allow the private courtyard for Unit 1 to be located 3.9 feet from the side street property line along "D" Street where a 10-foot setback is required. A second variance is requested to allow the parking area to encroach 6 feet into the required 10-foot landscaped buffer along "D" Street.

The purpose of the 10-foot side street yard setback is to provide an attractive streetscape. However, in this instance, the City along the "D" Street property line, leaving no space for the 10-foot setback constructed a 6-foot high masonry wall. Therefore, the placement of parking or private open space within the 10-foot setback area would not impact the streetscape since they would not be visible from "D" Street. Staff recommends approval of the variances based on the attached findings.

Conformance to the General Plan, Burbank Neighborhood Plan and Zoning Ordinance

The site is designated as Residential Medium Density (8.7 – 17.4 dwelling units per acre) on the *General Plan Map*, within the Medium Density Residential (RM) District. The project is consistent with these designations in that 5 detached residential condominiums are proposed at a density of 7.8 dwelling units per net acre.

The proposed development is in conformance with the stated purpose of the RM District to "*promote and encourage a suitable environment for family life in areas where a compatible mingling of single-family and multiple-family dwellings is possible.*"

The project is in conformance with the *Burbank Neighborhood Plan*, Policy 1, in that the proposed residences are compatible with the surrounding multi- and single-family homes and the development will be below the density allowed. It is consistent with Policy 2, in that 2 parking spaces per unit plus guest parking is provided. The project is consistent with Policy 12 in that private and group open space, in excess of that required, is provided on-site.

ENVIRONMENTAL REVIEW

The Mitigated Negative Declaration was prepared and distributed for a period of 20 days beginning on September 25, 1998, in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. A notice of its availability for review and notice of this hearing were sent to all property owners and occupants within 300 feet of the perimeter of the property and to other interested parties.

Tentative Tract No. 6992, Site Plan Review No. 97-130-16, Variance 98-180-07 – Paul Wong (Applicant, MBR Corporation (Owner))

Based on Hayward Unified School District, 1998 figures, the project will result in an estimated increase of 2 school-age children. The project is located within the Burbank Elementary, Winton Intermediate and Hayward High School attendance boundaries. The following chart shows the existing and projected school enrollments and capacities.

EXISTING SCHOOL	CURRENT ENROLLMENT (Oct. 1997)	PROJECTED ENROLLMENT (Oct. 1998)	CURRENT CAPACITY
Burbank Elementary School	680	712	583
Winton Intermediate School	578	593	670
Hayward High School	1,819	1,854	1,775

Payment of School Taxes will be required at the time of construction to offset the impact on the school system.

PUBLIC HEARING NOTICE

On January 13, 1998, a notice was mailed to all property owners within 300 feet of the subject property, abutting residents and all interested parties regarding a preliminary meeting. On January 22, 1998, the public meeting was held and no citizens attended. One neighboring property owner telephoned to express concerns regarding the construction of two-story units next to her one-story duplex. A condition of approval of the project will require that evergreen trees be planted and a 6-foot fence be provided along the east property line to ensure privacy between the new and existing residences.

On October 12, 1998, a notice of the Planning Commission public hearing was published in the "Daily Review" and mailed to all property owners within 300 feet of the property, abutting residents and other interested parties.

CONCLUSION

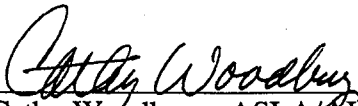
The project is compatible with the surrounding residential land uses and consistent with the *General Plan Map* designation and the requirements of the Medium Density Residential (RM) District. Approval of the tentative map, site plan and variances will allow construction of a project that fulfills the City's goals to create ownership housing opportunities.

Tentative Tract No. 6992, Site Plan Review No. 97-130-16, Variance 98-180-07 – Paul Wong (Applicant, MBR Corporation (Owner))

Prepared by:

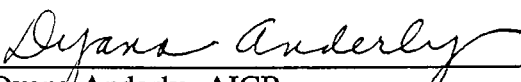


Tim Koonze
Development Review Specialist



Cathy Woodbury, ASLA/AICP
Landscape Architect/Senior Planner

Recommended by:



Dyana Anderly, AICP
Development Review Services Administrator

Attachments:

- A. Area and Zoning Map
- B. Findings for Approval - Tentative Map 6992
- C. Conditions of Approval - Tentative Map 6992
- D. Findings for Approval - Site Plan
- E. Findings for Approval – Variances
- F. Conditions of Approval – Site Plan
- G. Mitigated Negative Declaration
- H. Tentative Tract Map 6992
Site, Building and Landscape Plans

EXHIBIT B

FINDINGS FOR APPROVAL TENTATIVE TRACT MAP 6992 FOR 5 CONDOMINIUM UNITS 292 Winton Avenue

- A. The Mitigated Negative Declaration represents the independent judgment of the Planning Commission. Mitigation measures are included for reduction of interior noise to meet State standards and to reduce outdoor noise in private open spaces to meet City standards.
- B. The tentative tract map and the site plan, as conditioned, are in substantial conformance with the mitigations in the attached Mitigated Negative Declaration, which reflects the independent judgement of the Planning Commission.
- C. The tentative tract map and the proposed site plan substantially conform to the State Subdivision Map Act, the City's Subdivision Regulations, the General Policies Plan, the Downtown Core Area Specific Plan and the Downtown Hayward Design Plan.
- D. The site is physically suitable for the proposed type of development.
- E. The design of the subdivision and the proposed improvements are **not** likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- F. The design of the subdivision and the proposed improvements are **not** likely to cause serious health problems.
- G. The design of the subdivision and the proposed improvements are in conformance with the conditions of approval and will not conflict with easements for access through, or use of, property within the subdivision.
- H. Existing and proposed streets and utilities are adequate to serve the project.
- I. None of the findings set forth in Section 64474 of the Subdivision Map Act have been made, and the approval of the tentative tract map is granted subject to the recommended conditions of approval.

Tentative Tract Map No. 6992 -Conditions of Approval

EXHIBIT C

**CONDITIONS OF APPROVAL
TENTATIVE TRACT MAP 6992
FOR 5 CONDOMINIUM UNITS
292 Winton Avenue**

Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.

All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.

The applicant/developer's engineer shall perform all design work unless otherwise indicated.

PRIOR TO THE RECORDATION OF THE FINAL MAP

IMPROVEMENTS

Improvement plans shall be submitted to the City engineer for review and approval. Subject plans shall, in addition to the standard improvements, incorporate the following special design requirements:

Interior Private Street and Winton Avenue

1. The private street shall have a 25-foot-wide right-of-way with on street parking except within the five stall parking bay. A 6-foot-wide public utility easement abutting the right-of-way shall be provided on both sides. The street design is to be approved by the City Engineer.
2. All curbs fronting travel ways where parking is not located, shall be painted red and signed to allow towing of illegally parked vehicles to ensure adequate fire truck access.
3. The curb returns at the proposed street intersection with Winton Avenue shall have a curb face radii of 30 feet.
4. All driveways along Winton Avenue to be abandoned shall be removed and replaced with standard sidewalk, curb and gutter.
5. The developer shall install a new fire hydrant along Winton Avenue. The type and location shall be approved by the Fire Marshall.

Tentative Tract Map No. 6992 -Conditions of Approval

Utilities

6. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.
7. Each dwelling unit shall be individually metered for water and have a separate sewer lateral connection to the private building court main. The construction plans shall indicate the location of the sewer laterals and water services (including meter locations).
8. On-site sanitary sewer, water and storm drain facilities shall be privately owned and maintained by the homeowners association.
9. The type and spacing of fire hydrants shall be subject to review and approval by the City of Hayward Fire Chief.
10. A reduced pressure backflow preventer shall be installed behind the water meter per City of Hayward Standard Detail 202;
11. The applicant/developer and/or property owner shall provide keys/access codes to the Hayward Utilities Division for all meters enclosed by a fence or gate per Hayward Municipal Code Section 11-2.07.
12. A grading and drainage plan shall be submitted to the City Engineer for review and approval. The storm drainage system shall be a private system designed in accordance with the requirements of the City of Hayward. Hydraulic calculations for the proposed storm drainage system shall be provided for the entire tract. A Storm Water Pollution Prevention Plan (SWPPP), showing how storm water quality will be protected during and after the construction phase, shall be submitted for review and approval of the City Engineer. The plan shall also reflect the Best Management Practices Handbook for Construction Activities. It is the responsibility of the applicant/developer to comply with Federal, State and local water quality standards and regulations.
13. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff.
14. The project plan measures shall include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.

Tentative Tract Map No. 6992 -Conditions of Approval

15. The applicant/developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations, or a project stop order.
16. All on-site storm drain inlets must be labeled "No Dumping - Drains to Bay" using City approved methods.
17. The drainage system design shall use the Hydrology and Hydraulics Criteria Summary, Alameda County Flood Control and Water Conservation District, latest edition, to determine storm drainage runoff. The drainage system shall be designed to accommodate the run-off associated with a 10-year-storm.

Utilities

18. The applicant/developer shall underground all new on-site utility lines and transformers and all existing above ground utilities (i.e., telephone and electrical poles), including transformers on the sites.
19. All surface-mounted utility hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the 6-foot-wide Public Utility Easement in accordance with City Engineer requirements or, where applicable, the Fire Chief.
20. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, Pacific Bell Company and TCI Company regulations, including transformers.

Walls

21. All proposed retaining walls shall be decorative reinforced concrete.

Dedications and Easements

22. All abutters' right of ingress and egress along "D" Street and Winton Avenue except at the entry road, shall be relinquished to the City of Hayward.
23. Prior to the approval of the final map, all documents that need to be recorded with the final map shall have been approved by the City Engineer, any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.

Tentative Tract Map No. 6992 –Conditions of Approval

Conditions, Covenants, and Restrictions

24. The applicant/developer shall establish a homeowners' association, or some alternate mechanism acceptable to the City, and prepare project CC&R's for the development which shall be reviewed and approved by the Director of Community and Economic Development/Planning Director and include the following conditions:
- a. A requirement that a Homeowners' Association Architectural Review Committee be established to review and approve all exterior improvements; including fences, walls or changes to individual homes to ensure consistency with the CC&Rs;
 - b. The homeowners' association shall be authorized to enforce the individual covenants requiring the property owners to properly maintain front and street side yard landscaping;
 - c. The homeowners' association shall be required to maintain the planters, walls and fences along the Winton Avenue frontage in good repair and free of graffiti;
 - d. The homeowners' association shall maintain the landscape and irrigation in all common areas, including the buffer along Winton Avenue or the City shall have the right to enter upon the property to maintain the exterior portions of the common area at the expense of the homeowners association per Section 10-3.385 of the Subdivision Ordinance.

Subdivision Agreement

25. The applicant/development shall enter into a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332, Security for Installation of Improvements, of the Municipal Code. Insurance shall be provided per the terms of the subdivision agreement.

PRIOR TO ISSUANCE OF A GRADING PERMIT

26. Notwithstanding Section 10-8.11(g) of the Municipal Code, a grading permit shall be required for any on-site grading if the grading is to be done independent of the subdivision's improvement plans. No grading permit shall be issued prior to tentative tract map approval
27. The grading plans shall comply with the geotechnical engineering recommendations contained in *Soil and Geotechnical Report, 5 homes at 292 Winton Avenue*, prepared by Globe Soil Engineers, dated November 17, 1997.
28. The grading plan, with supporting calculations, and a review checklist shall be submitted to the City Engineer for review and approval. The proposed curb elevations are not to be less than 1.25 feet above hydraulic grade line, as shown in Figure 14 of the Hydraulic Criteria Summary, and at no point shall curb grade be below the energy grade line.

Tentative Tract Map No. 6992 -Conditions of Approval

29. The applicant/developer shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building or grading permits. These BMPs shall be implemented by the general contractor and all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction debris shall also be addressed in this program. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order.
30. Grading, erosion and sedimentation control plans, which include adequate provisions for silt and erosion control in both construction and post construction phases of development, shall be submitted for review and approval by the City Engineer.
31. The oak tree at the northern corner of the site shall be preserved. Tree preservation measures shall be included on the grading and site plans.

PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS

32. Required water system improvements shall be completed and operational prior to the start of combustible construction;
33. Emergency vehicle access shall be maintained via a minimum 24-foot-wide all-weather access road engineered for 50,000 pound gross vehicle weight.

DURING CONSTRUCTION

34. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Director of Community and Economic Development/Planning Director:
 - a. Grading and construction activities shall be limited to the hours 8:00 AM to 5:00 PM on weekdays; there shall be no grading or construction activities on the weekend or national holidays;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Unnecessary idling of grading and construction equipment is prohibited;
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise;

Tentative Tract Map No. 6992 -Conditions of Approval

- f. Daily clean up of trash and debris shall occur on "D" Street and Winton Avenue;
 - g. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
 - h. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
 - i. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
 - j. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - k. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
 - l. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.); and
35. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
36. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
37. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
38. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
39. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;

Tentative Tract Map No. 6992 -Conditions of Approval

40. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "*Building Maintenance/Remodeling*" flyer for more information;
41. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
42. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
43. A representative of the soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe grading operations with recommended corrective measures given to the contractor and the City Engineer.
44. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
45. The oak tree at the north end of the property shall be preserved.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

46. The applicant/developer shall pay the following fees;
 - a. Water Facilities Fee and Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued;
 - b. Supplemental Building Construction and Improvement Tax;
 - c. School Tax;
 - d. Park Dedication in-lieu fees for each unit. The amount of the fee shall be in accordance with the fee schedule in effect at the time of issuance of the building permits.
47. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans prior to the issuance of a certificate of occupancy.
48. The street light electroliers shall be in operating condition as approved by the City Engineer.

Tentative Tract Map No. 6992 -Conditions of Approval

49. There shall be clear, unequivocal constructive notice placed on the title to the affected properties stating that in the event that the subject homes are rented, leased, or otherwise let for occupancy by persons other than the owners, owners shall provide notices identical to those on the CC&Rs relative to the fire suppression water system and the domestic water system to the prospective tenants, leases, and occupants.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

50. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
51. An AC overlay along the D Street and Winton Avenue frontage may be required by the City Engineer, if it is determined that it is necessary due to deterioration resulting from heavy traffic during the construction.
52. The improvements associated with the Pacific Gas and Electric Company, Pacific Bell Company and TCI Company shall be installed to the satisfaction of the respective companies.
53. The subdivider shall submit an "as built" plan indicating the following:
- a. All the underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, Pacific Bell facilities, TCI, etc;
 - b. All the site improvements, except landscaping species, buildings and appurtenant structures.
54. Prior to the City setting the water meters, the subdivider shall provide the Water Department with certified costs covering the installation of the public water mains and appurtenances.

EXHIBIT D

**CITY OF HAYWARD
FINDINGS FOR APPROVAL
Site Plan Review Application No. 97-130-07
292 Winton Avenue**

Based on the staff report and the public hearing record:

1. Approval of SPR 97-130-07, as conditioned, will have no significant impact on the area's resources, cumulative or otherwise, and the Mitigated Negative Declaration prepared for this project is complete and final in accordance with the California Environmental Quality Act and reflects the independent judgement of the Planning Commission; and
2. The development is compatible with surrounding structures and uses in that it consists of detached residential condominiums; and
3. The development takes into consideration physical and environmental constraints in that the buildings are sited such that open space and parking are provided on-site, and private walled courtyards are provided for those units impacted by traffic noise; and
4. The development complies with the intent of City development policies and regulations in that five detached residential condominiums are proposed at a density below the maximum allowed, recreation open space and parking are provided on-site as recommended in the *Burbank Neighborhood Plan*, and the project provides home ownership opportunities; and
5. The development will be operated in a manner determined to be acceptable and compatible with surrounding development in that it is in conformance with the requirements of the Medium Density Residential (RM) District and applicable Performance Standards.

EXHIBIT E

**CITY OF HAYWARD
FINDINGS FOR APPROVAL
Variance Application No. 98-180-07
292 Winton Avenue**

Based on the staff report and the public hearing record:

1. There are special circumstances applicable to the property in that the triangular configuration and small size, less than one acre, presents physical constraints for its development; and the existing sound wall provides a physical and visual buffer along "D" Street.
2. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification in that other residential properties on "D" Street have parking areas and private open space within the 10' setback.
3. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated in that the requested encroachment is not contrary to the purpose of the side street yard to provide an attractive streetscape.

EXHIBIT F

CITY OF HAYWARD
CONDITIONS OF APPROVAL
Site Plan Review Application No. 97-130-16
Variance Application No. 98-180-07
292 Winton Avenue

1. The site plan shall become void two years after approval of the City Council unless, prior to that time, a building permit application has been accepted for processing by the Building Official or an extension has been approved.
2. All improvements shown on Exhibit "H" shall be completed prior to occupancy, unless exempted by the conditions below.
3. The design and construction of structures shall comply with the latest edition of the Uniform Building Code (1997) as recommended in the *Geotechnical Reconnaissance*, prepared by Geotecnica, August 17, 1998.
4. All recommendations contained in the *Environmental Noise Evaluation*, prepared by Thorburn Associates, December 19, 1997, as amended September 3, 1998, shall be incorporated into the project. A 7.5-foot-high decorative stucco-walled courtyards shall be constructed on Units 1 and 5 to mitigate the impact of traffic noise from D Street sound wall shall be installed along the Winton Avenue frontage per the noise study identified as *Winton and D Streets – Exterior Acoustical Study*, by Thorburn Associates, dated September 3, 1998. The wall location shall comply with the noise study. The design of the wall shall be decorative and shall be approved by the Planning Director.
5. Mail boxes for all units shall be located next to the public street.
6. The site shall be developed in compliance with the following Fire Department requirements:
 - a. Units 4 and 5 shall be protected with an automatic fire sprinkler system per NFPA 13-D standards.
 - b. The fire hydrant on-site shall be a double steamer with two 4 ½" outlets and one 2 ½" outlet. Red curbing shall be provided on both sides of the fire hydrant. Parking shall be prohibited adjacent to the red curb.
 - c. Roof materials for all structures shall be minimum class C.
 - d. All chimneys shall be equipped with approved spark arresters.

- e. All buildings shall display an address visible from the private street. The address shall be a minimum 6" height or a minimum 4" height if self-illuminated.
- 7. Prior to the issuance of the first building permit, detailed landscaping and irrigation plans for the site shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Planting and irrigation shall comply with the City's *Water Efficient Landscape Ordinance*.
 - a. Evergreen trees shall be provided every 20' along the east property line. Trees shall be a minimum size of 24" box at the time of planting.
 - b. Vines shall be planted 5' apart on the 6' privacy walls facing Winton Avenue.
 - c. Five street trees shall be provided along Winton Avenue. Trees shall be 24" box *Geijera parviflora*, planted 20' apart according to City Standard Detail SD-122.
 - d. Trees shall be planted along the inside of the entire length of the wall on "D" Street at a spacing appropriate for the species, as approved by the City Landscape Architect. Trees shall be 15-gallon minimum size at time of planting.
- 8. Landscaping shall be maintained in a healthy, weed-free condition at all times. Plants shall be replaced when necessary. Required trees that are in declining health, or severely topped or pruned shall be replaced immediately as determined by the City Landscape Architect. A tree removal permit is required prior to the removal of any tree on-site, regardless of size.
- 9. Private street light fixtures shall be of a decorative style approved by the Community and Economic Development/Planning Director.
- 10. A 6-foot decorative wood fence shall be provided along the east property line.



**DEPARTMENT OF
COMMUNITY AND ECONOMIC DEVELOPMENT
Development Review Services Division**

MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. *PROJECT DESCRIPTION:* Tentative Map Tract 6992, Site Plan Review Application No. 97-130-16 and Variance Application No. 98-180-07 – Paul Wong (Applicant), MBR Corporation (Owner). : Request: to subdivide a 0.64+ acre parcel into 5 condominium units; approval of site and architectural plans for 5 detached condominium units; and, approval of variances to allow a parking stall within 3.9' of, and private open space within 2' of the property line along D Street.

II. *FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:*

The proposed project, as conditioned, will have no significant effect on the area's resources, cumulative or otherwise.

III. *FINDINGS SUPPORTING DECLARATION:*

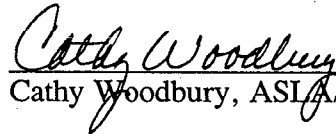
1. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
2. The project is in conformance with the General Policies Plan Map designation of Medium Density Residential in that residential units are proposed at a density of 3.2 dwelling units per acre.
3. The project is in conformance with the intent and purpose of the Zoning Ordinance designation of Medium Density Residential (RM) for the property in that it consists of residential development that is consistent with the regulations for the district.
4. Population projections were based on the same use and density proposed, therefore the project will not cause an increase in population that exceeds projections.
5. According to the Geotechnical Reconnaissance, the site is expected to be exposed to strong earthquake shaking during the life of the improvements, especially from a strong earthquake on the Hayward Fault. With the implementation of the condition of approval requiring that the latest edition of the Uniform Building code (1997) be followed the

MITIGATED NEGATIVE DECLARATION – Tentative Map Act 6992, Site Plan Review Application No. 97-130-16 and Variance Application No. 98-180-07 – Paul Wong (Applicant), MBR Corporation (Owner).

impact from geologic problems on the proposed project will be reduced to a level of insignificance.

6. The Environmental Noise Evaluation, prepared by Thorburn Associates, December 19, 1997, as updated on March 9 and September 3, 1998, concluded that units 1 and 5 do not meet the criteria established in the Noise element of the City of Hayward General Plan for private exterior open space noise levels of 60 Ldn and that in order to meet the criteria for a maximum interior noise level of 45 Ldn, mitigation measures are required. With the implementation of the recommended mitigation measures, the impact on the project from noise will be reduced to a level of insignificance.
7. The provision for private and group open space on site, and the payment of park dedication in-lieu fees will reduce the impact of the project on the City's recreation resources to a level of insignificance.
8. Based on Hayward Unified School District, 1998 figures, the project will result in an estimated increase of 2 in school-age population. The payment of School Taxes will reduce the impact on the school system to a level of insignificance.

IV. PERSON WHO PREPARED INITIAL STUDY:



Cathy Woodbury, ASLA/AICP, Landscape Architect/Senior Planner

Dated: September 25, 1998

V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the City of Hayward Development Review Services Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4210

DISTRIBUTION/POSTING

Provide copies to project applicants and all organizations and individuals requesting it in writing. Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.

Project file.

Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.

INITIAL STUDY CHECKLIST FORM

Project title Tentative Map Tract 6992, Site Plan Review Application No. 97-130-16 and Variance Application No. 98-180-07 – Paul Wong (Applicant), MBR Corporation (Owner).

Lead agency name and address: City of Hayward, 777 "B" Street, Hayward, CA 94541-5007

Contact persons and phone number: Cathy Woodbury (510) 583-4210

Project location: 292 Winton Ave., north east corner of Winton Avenue and "D" Street

Project sponsor's name and address: Paul Wong, 2401 Park Blvd., Suite 1, Oakland, CA 94606

General plan designation Medium Density Residential Zoning: Medium Density Residential (RM)

Description of project: Request: to subdivide a 0.64+ acre parcel into 5 condominium units - Tentative Map Tract 6992; approval of site and architectural plans for 5 detached condominium units - Site Plan Review Application No. 97-130-16; and, approval of variances to allow a parking stall within 3.9' of, and private open space within 2' of the property line along D Street - Variance Application No. 98-180-07. Paul Wong (Applicant), MBR Corporation (Owner).

Surrounding land uses and setting:

The property is surrounded by multi- and single-family development.

Other public agencies whose approval is required _____

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

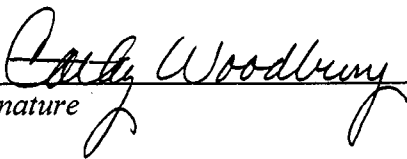
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|--|
| <input type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Transportation/Circulation | <input checked="" type="checkbox"/> Public Services |
| <input checked="" type="checkbox"/> Population and Housing | <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Utilities and Service Systems |
| <input type="checkbox"/> Geological Problems | <input type="checkbox"/> Energy and Mineral Resources | <input type="checkbox"/> Aesthetics |
| <input type="checkbox"/> Water | <input type="checkbox"/> Hazards | <input type="checkbox"/> Cultural Resources |
| <input type="checkbox"/> Air Quality | <input checked="" type="checkbox"/> Noise | <input checked="" type="checkbox"/> Recreation |
| <input type="checkbox"/> Mandatory Findings
of Significance | | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed project.



Signature

September 25, 1998

Date

Cathy Woodbury, ASLA/AICP,
Landscape Architect/Senior Planner

Printed name

City of Hayward

For

ENVIRONMENTAL IMPACTS:

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. LAND USE AND PLANNING. <i>Would the proposal:</i>				
a) Conflict with general plan designation or zoning?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Comment:</u> The project area is designated as Medium Density Residential (8.7 – 17.4 dwelling units per acre) on the <i>General Policies Plan Map</i> and it lies within the Medium Residential (RM) Zoning District. The project is consistent with these designations in that 5 detached residential condominiums are proposed at a density of 7.8 dwelling units per acre. The project is consistent with the Burbank Neighborhood Plan, Policy 1. in that the detached residences proposed are compatible with the surrounding multi- and single family units and the project will be below the maximum density allowed.</p>				
b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be incompatible with existing land use in the vicinity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Comment:</u> The Project is compatible with the surrounding land uses in that the properties are zoned Medium Density (RM) Residential and developed with a combination of multi- and single-family residences.</p>				
d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
II. POPULATION AND HOUSING. <i>Would the proposal:</i>				
a) Cumulatively exceed official regional or local population projections?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Comment:</u> Population projections were based on the same use and density proposed, therefore the project will not cause an increase in population that exceeds projections.</p>				

- | | Potentially
Significant
Impact | Potentially
Significant
Unless
Mitigation
Incorporated | Less Than
Significant
Impact | No Impact |
|---|--------------------------------------|--|------------------------------------|-------------------------------------|
| b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: The project is sited on a vacant in-fill parcel surrounded by developed land, therefore, it will not induce substantial growth directly or indirectly.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Displace existing housing, especially affordable housing? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

III. GEOLOGIC PROBLEMS. *Would the proposal result in or expose people to potential impacts involving:*

- | | | | | |
|-------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Fault rupture? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|-------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: The *Geotechnical Reconnaissance*, prepared by Geotecnia, August 17, 1998, states that the project is not within, or near an *Alquist-Priolo Earthquake Fault Zone*, and the Hayward Fault, located ½ mile northeast of the site, is the nearest active fault. No faults are shown crossing the site on reviewed published maps, nor was evidence of faulting observed during the site reconnaissance. Therefore, the report concluded that the risk for damage to improvements at the site from surface fault rupture is low.

- | | | | | |
|----------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| b) Seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|----------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|

Comment: According to the *Geotechnical Reconnaissance*, the site is expected to be exposed to strong earthquake shaking during the life of the improvements, especially from a strong earthquake on the Hayward Fault. The report recommends that the latest edition of the Uniform Building code (1997) be followed to reduce potential damage to structures from earthquake shaking. This recommendation will be a condition of approval of the project.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Seismic ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Comment: According to the *Geotechnical Reconnaissance* the potential for liquefaction at the site is low.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Seiche, tsunami, or volcanic hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Landslides or mudflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The *Geotechnical Reconnaissance*, prepared by Geotecnia, August 17, 1998, concluded that since the subject parcel is relatively flat, the potential for landsliding at the site is low.

f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Subsidence of land?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The *Soil/Geotechnical Report*, prepared by Globe Soil Engineers, November 17, 1997, concluded that the potential for liquefaction or subsidence of the native soils on that portion of the site to be developed is very low provided the recommendations are followed. These recommendations will be conditions of approval of the project.

h) Expansive soils?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Comment: The *Geotechnical Reconnaissance* prepared by Geotecnia, August 17, 1998, concluded that there are soils on site that have a moderate potential for expansion. The report recommends measures to be implemented in order to minimize the impact of soil movement. These recommendations will be made conditions of approval of the project.

i) Unique geologic or physical features?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IV. WATER. *Would the proposal result in:*

a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Exposure of people or property to water related hazards such as flooding?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Comment:</u> According the <i>Flood Insurance Rate Map</i> (FIRM), dated February 19, 1986, the site lies within Zone C, an area of minimal flooding.				
c) Discharge into surface waters or other alteration of surface water quality (e.g., temperature, dissolved oxygen or turbidity)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Changes in the amount of surface water in any water body?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Changes in currents, or the course or direction of water movements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Altered direction or rate of flow of groundwater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Impacts to groundwater quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Substantial reduction in the amount of groundwater otherwise available for public water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

V. **AIR QUALITY.** *Would the proposal:*

a) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Expose sensitive receptors to pollutants?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Alter air movement, moisture, or temperature, or cause any change in climate?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: A condition of approval of the proposed project will be to comply with all applicable requirements of the *Bay Area Air Quality Management District*. The project sponsor will be required to develop and implement appropriate dust control measures during construction.

d) Create objectionable odors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VI. TRANSPORTATION/CIRCULATION. *Would the proposal result in:*

a) Increased vehicle trips or traffic congestion?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The 5 single-family residences will generate a negligible number of vehicle trips.

b) Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Inadequate emergency accesses or access to nearby uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Insufficient parking capacity onsite or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: The project has been designed to provide two covered parking spaces for each unit, and 5 guest parking spaces, as required by code.

e) Hazards or barriers for pedestrians or bicyclists?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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g) Rail, waterborne or air traffic impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VII. BIOLOGICAL RESOURCES. *Would the proposal result in impacts to*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Comment:</u> The site is vacant and field observations made in February and September, 1998 have revealed no known endangered, threatened or rare species, or their habitats on the property.</p>				
b) Locally designated species (e.g., heritage trees)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Wetland habitat (e.g., marsh, riparian, and vernal pool)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Wildlife dispersal or migration corridors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VIII. ENERGY AND MINERAL RESOURCES. *Would the proposal:*

a) Conflict with adopted energy conservation plans?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Use nonrenewable resources in a wasteful and inefficient manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

IX. HAZARDS. *Would the proposal involve:*

a) A risk of accidental explosion or release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Possible interference with an emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) The creation of any health hazard or potential health hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Exposure of people to existing sources of potential health hazards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Increased fire hazard in areas with flammable brush, grass, or trees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

X. NOISE. *Would the proposal result in:*

a) Increases in existing noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of people to severe noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment: The *Environmental Noise Evaluation*, prepared by Thorburn Associates, December 19, 1997, as updated on March 9 and September 3, 1998, concluded that units 2,3 and 4 meet the criteria established in the Noise element of the *City of Hayward General Plan* for private exterior open space noise levels. However, 7'6" private open space enclosures are proposed for units 1 and 5 in order to maintain the accepted exterior private open space noise level of 60 Ldn.

The *Environmental Noise Evaluation* further concluded that in order to meet the criteria for a maximum interior noise level of 45 Ldn, mitigation measures are required: dual-paned windows, windows must be kept closed at all times and mechanical ventilation is required, the perimeters of all glass doors must be fully gasketed, and any lites in doors must have the same insulating glass as the windows.

The recommended mitigation measures will be conditions of approval of the project.

XI. PUBLIC SERVICES. *Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:*

a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comment: Based on Hayward Unified School District, 1998 figures, the project will result in an estimated increase of 2 in school-age population. Payment of School Taxes will be required at the time of construction to offset the impact on the school system.

d) Maintenance of public facilities, including roads?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other government services?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. UTILITIES AND SERVICE SYSTEMS. *Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities?*

a) Power or natural gas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Communications systems?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Local or regional water treatment or distribution facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Sewer or septic tanks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Storm water drainage?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Solid waste disposal?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Local or regional water supplies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIII. AESTHETICS. *Would the proposal?*

a) Affect a scenic vista or scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a demonstrable negative aesthetic effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comment: The proposed architecture, landscaping and site improvements are consistent with the *City of Hayward Design Guideline*.

c) Create light or glare?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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XIV. CULTURAL RESOURCES. *Would the proposal:*

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Disturb paleontological resources? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Disturb archaeological resources? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Have the potential to cause a physical change which would affect unique cultural values? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Restrict existing religious or sacred uses within the potential impact area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

XV. RECREATION. *Would the proposal:*

- | | | | | |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) Increase the demand for neighborhood or regional parks or other recreational facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

Comment: Each unit is provided with from 169 to 977 square feet of private open space. In addition, consistent with the *Burbank Neighborhood Plan*, Policy 12., 1,112 square feet of group open space is provided and available to all residents in the project. Prior to occupancy, the project sponsor will be required to pay applicable park dedication in-lieu fees.

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| b) Affect existing recreational opportunities? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

Comment: Prior to occupancy, the project sponsor will be required to pay applicable park dedication in-lieu fees.

XVI. MANDATORY FINDINGS OF SIGNIFICANCE.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

- b) Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- c) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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- d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XVII. EARLIER ANALYSES.

- a) **Earlier analyses used.** None
- b) **Impacts adequately addressed.** Yes
- c) **Mitigation measures.** Conditions of Approval

DRAFT JB 11/19/98

HAYWARD CITY COUNCIL

RESOLUTION No. _____

Introduced by Council Member _____

RESOLUTION CERTIFYING THAT THE NEGATIVE
DECLARATION HAS BEEN COMPLETED IN
COMPLIANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT, APPROVING SITE
PLAN REVIEW APPLICATION NO. 97-130-16 AND
VARIANCE APPLICATION No. 98-180-07, AND
CERTIFYING AND APPROVING THE VESTING
TENTATIVE MAP FOR TRACT 6992

WHEREAS, there has been submitted to the City Council of the City of Hayward a vesting tentative map for Tract 6992, located at 292 Winton Avenue on the northeast corner of Winton Avenue and "D" Street in an RM (Medium-Density Residential) District, concerning a request by Paul Wong (applicant), MBR Corporation (Owner), to subdivide a 0.64± acre parcel into five condominium units and, in connection therewith, Application No. 97-130-16, for site plan review and Application No. 98-180-07 for a variance to allow parking stalls within 3.9' of the property line, and private open space within 3' of the property line along "D" Street where a 10 foot setback is required; and

WHEREAS, a mitigated negative declaration has been prepared and processed for this subdivision and application for site plan review and variances in accordance with City and CEQA guidelines; and

WHEREAS, the Planning Commission considered this matter at its October 22, 1998, meeting and recommends certification of the negative declaration, approval of the vesting tentative map, site plan review and the requested variances; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines that the City Council has independently reviewed and considered the information contained in the initial study upon which the mitigated negative declaration is based, certifies that the negative declaration has been completed in compliance with the requirements of the California Environmental Quality Act, and finds that the negative declaration reflects the independent judgment of the City of Hayward; and

WHEREAS, the City Council hereby finds and determines with respect to the vesting tentative map that:

1. The Mitigated Negative Declaration represents the independent judgment of the City Council. Mitigation measures are included for reduction of interior noise to meet State standards and to reduce outdoor noise in private open spaces to meet City standards.
2. The tentative tract map and the site plan, as conditioned, are in substantial conformance with the mitigations in the attached Mitigated Negative Declaration, which reflects the independent judgment of the City Council.
3. The tentative tract map and the proposed site plan substantially conform to the State Subdivision Map Act, the City's Subdivision Regulations, the General Policies Plan, the Downtown Core Area Specific Plan and the Downtown Hayward Design Plan.
4. The site is physically suitable for the proposed type of development.
5. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. The design of the subdivision and the proposed improvements are not likely to cause serious health problems.
7. The design of the subdivision and the proposed improvements are in conformance with the conditions of approval and will not conflict with easements for access through, or use of, property within the subdivision.
8. Existing and proposed streets and utilities are adequate to serve the project.
9. None of the findings set forth in Section 64474 of the Subdivision Map Act have been made, and the approval of the tentative tract map is granted subject to the recommended conditions of approval.

WHEREAS, the City Council hereby further finds and determines, in addition to the aforementioned findings, with respect to Site Plan Review Application No. 97-130-07 that:

10. Approval of SPR 97-130-07, as conditioned, will have no significant impact on the area's resources, cumulative or otherwise, and the Mitigated Negative Declaration prepared for this project is complete and final in accordance with the California Environmental Quality Act and reflects the independent judgment of the City Council; and

11. The development is compatible with surrounding structures and uses in that it consists of detached residential condominiums; and
12. The development takes into consideration physical and environmental constraints in that the buildings are sited such that open space and parking are provided onsite, and private walled courtyards are provided for those units impacted by traffic noise; and
13. The development complies with the intent of City development policies and regulations in that five detached residential condominiums are proposed at a density below the maximum allowed, recreation open space and parking are provided on-site as recommended in the Burbank Neighborhood Plan, and the project provides home ownership opportunities; and
14. The development will be operated in a manner determined to be acceptable and compatible with surrounding development in that it is in conformance with the requirements of the Medium Density Residential (RM) District and applicable Performance Standards.

WHEREAS, the City Council hereby further finds and determines, in addition to the aforementioned findings, with respect to Variance Application No. 98-180-07 that:

15. There are special circumstances applicable to the property in that the triangular configuration and small size, less than one acre, presents physical constraints for its development; and the existing sound wall provides a physical and visual buffer along "D" Street.
16. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification in that other residential properties on "D" Street have parking areas and private open space within the 10' setback.
17. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated in that the requested encroachment is not contrary to the purpose of the side street yard to provide an attractive streetscape.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the vesting tentative map for Tract 6992, subject to the attached conditions, is hereby approved, and Site Plan Review Application No. 97-130-07 and Variance Application No. 98-180-07 are hereby approved to be constructed subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 1998

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward